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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/701,751	02/08/01	KOTTWITZ	B H-3491-PCT/U

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IM52/0620

EXAMINER	
ELHILDE, E	
ART UNIT	PAPER NUMBER

1751  
DATE MAILED:

06/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/701,751	KOTTWITZ ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Eisa B Elhilo	1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 February 2001.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 12-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 12-21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)      18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)      19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.      20) Other: \_\_\_\_\_

Claims 1 and 12-21 are pending in this application.

### **DETAILED ACTION**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

~~Claim 18~~ is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

~~Claim 18~~ is indefinite because the claim recites the phrase "per percent by weight" and it is unclear how much the amount of alkali metal percarbonate present relative to the amount of the enzyme present.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbots et al. (WO Patent No. 98/07818).

Herbots (WO' P 818) teaches detergent compositions in a liquid, powder or granular forms (see page 12, last paragraph) comprising from 0.00024% to 0.048% of  $\alpha$ -amylase (BAN) (see page 11, second paragraph and page 12, first paragraph), from about 1% to about 25% percarbonate such as sodium percarbonate (see page 35, second paragraph and middle of page

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57) and a bleaching-activating transition metal complex (see page 37, second paragraph).

Herbots also teaches a method comprising the step of soaking, rinsing or pretreating of stained fabrics to provide fabric cleaning, stain removal, whiteness, softening, color appearance and dye transfer inhibition (see page 13 first paragraph).

The instant claim differs from the reference by reciting optimal amount of the ingredients in the composition. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to optimize the amount of the ingredients in the composition so as to get the maximum effective amount. The person of ordinary skill in the art would expect such composition to have similar properties to those claimed, absent unexpected results.

*Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

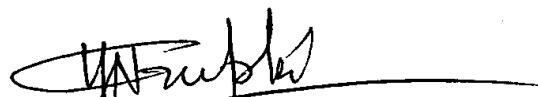
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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EE

Eisa

June 5, 2001

  
YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700